

CLAYMAN & ROSENBERG  
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*Attorneys for BDG Lake Grove I, LLC*  
(BLMIS Account No. 1-B0081 designated Claim Number 011223)

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X

SECURITIES INVESTOR PROTECTION :  
CORPORATION, : Adv. Pro. No. 08-01789(BRL)  
Plaintiff,  
:  
-against- : SIPA Liquidation  
BERNARD L. MADOFF INVESTMENT :  
SECURITIES LLC, :  
Defendant :

-----X

**OBJECTION TO TRUSTEE'S DETERMINATION OF CLAIM**

BDG Lake Grove I, LLC ("Objector"), by counsel, CLAYMAN & ROSENBERG, hereby  
objects to the Notice of Trustee's Determination of Claim dated December 8, 2009 (the  
"Determination Letter"), appended hereto as Exhibit A, as set forth herein.

## BACKGROUND

1. Objector is a "Customer" as that term is defined by the Securities Investor Protection Act ("SIPA") of Bernard L. Madoff Investment Securities LLC ("BLMIS").
2. Objector was and is a member of Bull Market Fund, a general partnership organized in the State of New York in 1986.
3. The Bull Market Fund partnership was organized with the knowledge and encouragement of BMLIS for the purpose of consolidating the bookkeeping for the investment of certain small investors with BLMIS.
4. Bull Market Fund received a final statement from BLMIS which indicated that Bull Market Fund owned securities valued at \$36,833,462.86.
5. On or about December 31, 2008, Objector received a statement from Bull Market Fund which indicated that Objector's funds invested by Bull Market Fund in BLMIS were valued at \$1,041,851.
6. On December 11, 2008, the above-captioned liquidation proceeding was commenced against BLMIS, pursuant to the Securities Investor Protection Act of 1970 ("SIPA"). Irving Picard was appointed Trustee ("BLMIS Trustee") with oversight of the liquidation of BLMIS and responsibility for processing customer claims for money pursuant to SIPA.
7. By Order dated December 23, 2008, the Court directed the Trustee to disseminate notice and claim forms to BLMIS customers and set forth claim-filing deadlines. The Order further authorized the Trustee, *inter alia*, "to satisfy, within the limits provided by SIPA, those portions of any and all customer claims and accounts which agree with the Debtor's books and records," and provided that, where the BLMIS Trustee disagrees with the amount claimed in a

customer's claim form, the BLMIS Trustee, "shall notify such claimant by mail of his determination that the claim is disallowed, in whole or in part, and the reason therefor..."

8. On or about June 24, 2009, Objector timely submitted a customer claim form to SIPC setting forth his claim in the amount of \$1,041,851 ("Objector's claim"). Objector's claim cross-referenced the BLMIS account of Bull Market Fund. A copy of Objector's claim form is appended hereto as Exhibit B.

9. On December 8, 2009, the BLMIS Trustee sent Objector a Determination Letter denying Objector's claim, "in its entirety." Exhibit A. The Determination Letter stated, in part, "Based upon a review of available books and records of BLMIS by the Trustee's staff, you did not have an account with BLMIS. Because you did not have an account, you are not a customer of BLMIS under SIPA as that term is defined at 15 U.S.C. Section 7811(2). Accordingly, your Claim for securities and/or a credit balance is **DENIED**."

10. Objector objects to the BLMIS Trustee's disallowance of his claim for the reasons set forth hereinbelow.

#### **GROUND FOR OBJECTION**

11. First: The Trustee's definition and application of the term, "account" as set forth in the Determination Letter is incorrect.

12. Second: The Trustee's definition and application of the term, "customer" as set forth in the Determination Letter is incorrect.

13. Objector reserves the right to revise or amend this Objection. Objector's failure to assert an objection on a particular ground or grounds shall not be construed as a waiver of its right to object or join in the objection of other claimants on any additional grounds.

14. Objector reserves all rights set forth in Rule 9014.

15. Objector incorporates herein by reference all claims and reservations of rights set forth in Objector's claim form. Exhibit B.

**RELIEF SOUGHT**

16. Objector's claim should be allowed in its entirety.
17. The Court should direct SIPC to pay Objector the full amount of Objector's claim together with interest thereon commencing not later than the date of the Determination Letter.
18. Such other and further relief as the Court may deem just and equitable.

Dated: New York, New York  
January 6, 2010



CLAYMAN & ROSENBERG

By: Seth L. Rosenberg (SR4563)  
Paul S. Hugel (PH4749)

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New York, NY 10165  
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[rosenberg@clayro.com](mailto:rosenberg@clayro.com)  
[hugel@clayro.com](mailto:hugel@clayro.com)

**EXHIBIT A**

**DETERMINATION LETTER**

**BERNARD L. MADOFF INVESTMENT SECURITIES LLC**  
In Liquidation  
**DECEMBER 11, 2008<sup>1</sup>**

**NOTICE OF TRUSTEE'S DETERMINATION OF CLAIM**

December 8, 2009

BDG LAKE GROVE I, LLC  
6800 JERICHO TURNPIKE  
SYOSSET, NY 11791

Dear BDG LAKE GROVE I, LLC:

**PLEASE READ THIS NOTICE CAREFULLY.**

The liquidation of the business of BERNARD L. MADOFF INVESTMENT SECURITIES LLC ("BLMIS") is being conducted by Irving H. Picard, Trustee under the Securities Investor Protection Act, 15 U.S.C. § 78aaa *et seq.* ("SIPA"), pursuant to an order entered on December 15, 2008 by the United States District Court for the Southern District of New York.

The Trustee has made the following determination regarding your claim designated as Claim No. 011223:

Based on a review of available books and records of BLMIS by the Trustee's staff, you did not have an account with BLMIS. Because you did not have an account, you are not a customer of BLMIS under SIPA as that term is defined at 15 U.S.C. § 78III (2). Accordingly, your Claim for securities and/or a credit balance is **DENIED**.

**PLEASE TAKE NOTICE:** If you disagree with this determination and desire a hearing before Bankruptcy Judge Burton R. Lifland, you **MUST** file your written opposition, setting forth the grounds for your disagreement, referencing Bankruptcy Case No. 08-1789 (BRL) and attaching copies of any documents in support of your position, with the United States Bankruptcy Court **and** the Trustee within **THIRTY DAYS** after December 8, 2009, the date on which the Trustee mailed this notice.

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<sup>1</sup> Section 78III(7)(B) of SIPA states that the filing date is "the date on which an application for a protective decree is filed under 78eee(a)(3)," except where the debtor is the subject of a proceeding pending before a United States court "in which a receiver, trustee, or liquidator for such debtor has been appointed and such proceeding was commenced before the date on which such application was filed, the term 'filing date' means the date on which such proceeding was commenced." Section 78III(7)(B). Thus, even though the Application for a protective decree was filed on December 15, 2008, the Filing Date in this action is on December 11, 2008.

**PLEASE TAKE FURTHER NOTICE:** If you do not properly and timely file a written opposition, the Trustee's determination with respect to your claim will be deemed confirmed by the Court and binding on you.

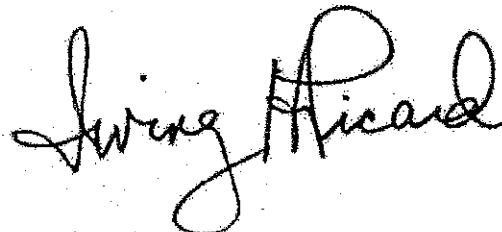
**PLEASE TAKE FURTHER NOTICE:** If you properly and timely file a written opposition, a hearing date for this controversy will be obtained by the Trustee and you will be notified of that hearing date. Your failure to appear personally or through counsel at such hearing will result in the Trustee's determination with respect to your claim being confirmed by the Court and binding on you.

**PLEASE TAKE FURTHER NOTICE:** You must mail your opposition, if any, in accordance with the above procedure, to each of the following addresses:

Clerk of the United States Bankruptcy Court for  
the Southern District of New York  
One Bowling Green  
New York, New York 10004

and

Irving H. Picard, Trustee  
c/o Baker & Hostetler LLP  
Attn: Claims Department  
45 Rockefeller Plaza  
New York, New York 10111



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**Irving H. Picard**

Trustee for the Liquidation of the Business of  
Bernard L. Madoff Investment Securities LLC

CC: DAVID KAPLAN  
300 ROBBINS LANE  
SYOSSET, NY 11791

**EXHIBIT B**

**CUSTOMER CLAIM FORM**

June 24, 2009

*Via UPS Overnight*

Irving H. Picard, Esq.  
Trustee for Bernard L. Madoff Investment Securities LLC  
Claims Processing Center  
2100 McKinney Avenue, Suite 800  
Dallas, Texas 75201

Re: Account Number: 1-B0081  
BDG Lake Grove I, LLC through Bull Market Fund  
300 Robbins Lane  
Syosset, New York 11791

Dear Mr. Picard:

BDG Lake Grove I, LLC is a partner in Bull Market Fund, which had an account with Bernard L. Madoff Investment Securities ("BLMIS"), Account No. 1-B0081.

It is our understanding that Bull Market Fund has submitted its own SIPC Customer Claim Form to your office.

We wish to submit our own personal SIPC Customer Claim Form at this time. We are attaching the following:

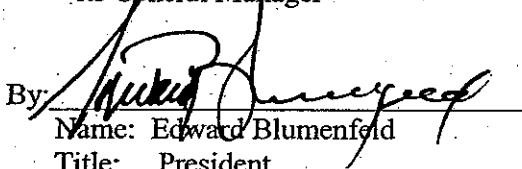
1. Our SIPC Customer Claim Form;
2. Bull Market Fund's November 30, 2008 BLMIS statement;
3. Our 2007 Schedule K-1;
4. Our personal account balance as of December 11, 2008; and
5. Operating Agreement of BDG Lake Grove I, LLC.

We reserve the right to amend or modify this claim if and to the extent warranted by facts and circumstances not presently known to us, or as a result of a subsequent determination by a court of competent jurisdiction with respect to any issue pertaining to our claim.

This letter is hereby incorporated by reference in and made a part of our SIPC Customer Claim Form.

Very truly yours,

BDG Lake Grove I, LLC  
By: BDG Asset Management, Inc.,  
its General Manager

By:   
Name: Edward Blumenfeld  
Title: President

[Close Window](#)



## Tracking Detail

Your package has been delivered.

Tracking Number: 1Z 12X 236 13 9039 362 7  
Type: Package  
Status: Delivered  
Delivered On: 06/25/2009 1:10 P.M.  
Signed By: THOMASSON  
Location: OFFICE  
Delivered To: 2100 MCKINNEY AVE  
800  
DALLAS, TX, US 75201  
Shipped/Billed On: 06/24/2009  
Reference Number(s): 01/SM, BDG LAKE GROVE I, LLC- BMF  
Service: NEXT DAY AIR SAVER

### Package Progress

Location	Date	Local Time	Description
DALLAS, TX, US	06/25/2009	1:10 P.M.	DELIVERY
	06/25/2009	6:42 A.M.	OUT FOR DELIVERY
	06/25/2009	6:07 A.M.	ARRIVAL SCAN
DALLAS/FT. WORTH A/P, TX, US	06/25/2009	5:40 A.M.	DEPARTURE SCAN
	06/25/2009	4:54 A.M.	ARRIVAL SCAN
ROCKFORD, IL, US	06/25/2009	3:13 A.M.	DEPARTURE SCAN
	06/24/2009	11:29 P.M.	ARRIVAL SCAN
JAMAICA, NY, US	06/24/2009	10:16 P.M.	DEPARTURE SCAN
	06/24/2009	9:18 P.M.	ARRIVAL SCAN
UNIONDALE, NY, US	06/24/2009	8:39 P.M.	DEPARTURE SCAN
	06/24/2009	8:21 P.M.	ORIGIN SCAN
	06/24/2009	7:12 P.M.	PICKUP SCAN
	06/24/2009	7:12 P.M.	PICKUP SCAN

**CUSTOMER CLAIM**

Claim Number \_\_\_\_\_

Date Received \_\_\_\_\_

**BERNARD L. MADOFF INVESTMENT SECURITIES LLC**

In Liquidation

**DECEMBER 11, 2008**

(Please print or type)

**BDG LAKE GROVE I, LLC**

Name of Customer: THROUGH BULL MARKET FUND

Mailing Address: 300 ROBBINS LANE

City: SYOSSET State: NY Zip: 11791

Account No.: BULL MARKET FUND'S ACCOUNT NO.: 1-B0081

Taxpayer I.D. Number (Social Security No.): 11-3577473

**NOTE: BEFORE COMPLETING THIS CLAIM FORM, BE SURE TO READ CAREFULLY THE ACCOMPANYING INSTRUCTION SHEET. A SEPARATE CLAIM FORM SHOULD BE FILED FOR EACH ACCOUNT AND, TO RECEIVE THE FULL PROTECTION AFFORDED UNDER SIPA, ALL CUSTOMER CLAIMS MUST BE RECEIVED BY THE TRUSTEE ON OR BEFORE March 4, 2009. CLAIMS RECEIVED AFTER THAT DATE, BUT ON OR BEFORE July 2, 2009, WILL BE SUBJECT TO DELAYED PROCESSING AND TO BEING SATISFIED ON TERMS LESS FAVORABLE TO THE CLAIMANT. PLEASE SEND YOUR CLAIM FORM BY CERTIFIED MAIL - RETURN RECEIPT REQUESTED.**

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**1. Claim for money balances as of December 11, 2008:**

- a. The Broker owes me a Credit (Cr.) Balance of \$ -0-
- b. I owe the Broker a Debit (Dr.) Balance of \$ -0-
- c. If you wish to repay the Debit Balance,  
please insert the amount you wish to repay and  
attach a check payable to "Irving H. Picard, Esq.,  
Trustee for Bernard L. Madoff Investment Securities LLC."  
If you wish to make a payment, it must be enclosed  
with this claim form. \$ -0-
- d. If balance is zero, insert "None." NONE

**2. Claim for securities as of December 11, 2008:**

**PLEASE DO NOT CLAIM ANY SECURITIES YOU HAVE IN YOUR POSSESSION.**

YES : NO

NC

- a. The Broker owes me securities.
- b. I owe the Broker securities
- c. If yes to either, please list below:

**Number of Shares or  
Face Amount of Bonds**

Date of  
Transaction  
(trade date)

Name of Security

The Broker  
Owes Me.  
(Long)      I Owe  
the Broker  
(Short)

SEE BULL MARKET FUND  
ACCOUNT STATEMENT

\$1,041,851\*

Proper documentation can speed the review, allowance and satisfaction of your claim and shorten the time required to deliver your securities and cash to you. Please enclose, if possible, copies of your last account statement and purchase or sale confirmations and checks which relate to the securities or cash you claim, and any other documentation, such as correspondence, which you believe will be of assistance in processing your claim. In particular, you should provide all documentation (such as cancelled checks, receipts from the Debtor, proof of wire transfers, etc.) of your deposits of cash or securities with the Debtor from as far back as you have documentation. You should also provide all documentation or information regarding any withdrawals you have ever made or payments received from the Debtor.

Please explain any differences between the securities or cash claimed and the cash balance and securities positions on your last account statement. If, at any time, you complained in writing about the handling of your account to any person or entity or regulatory authority, and the complaint relates to the cash and/or securities that you are now seeking, please be sure to provide with your claim copies of the complaint and all related correspondence, as well as copies of any replies that you received.

**PI EASE CHECK THE APPROPRIATE ANSWER FOR ITEMS 3 THROUGH 9.**

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\* PROVIDED BY BULL MARKET, SEE SUPPLEMENTAL CLAIM INFORMATION ATTACHMENT A

**NOTE: IF "YES" IS MARKED ON ANY ITEM, PROVIDE A DETAILED EXPLANATION ON A SIGNED ATTACHMENT. IF SUFFICIENT DETAILS ARE NOT PROVIDED, THIS CLAIM FORM WILL BE RETURNED FOR YOUR COMPLETION.**

	<u>YES</u>	<u>NO</u>
3. Has there been any change in your account since December 11, 2008? If so, please explain.	<input type="checkbox"/>	X
4. Are you or were you a director, officer, partner, shareholder, lender to or capital contributor of the broker?	<input type="checkbox"/>	X
5. Are or were you a person who, directly or indirectly and through agreement or otherwise, exercised or had the power to exercise a controlling influence over the management or policies of the broker?	<input type="checkbox"/>	X
6. Are you related to, or do you have any business venture with, any of the persons specified in "4" above, or any employee or other person associated in any way with the broker? If so, give name(s)	<input type="checkbox"/>	X
7. Is this claim being filed by or on behalf of a broker or dealer or a bank? If so, provide documentation with respect to each public customer on whose behalf you are claiming.	<input type="checkbox"/>	X
8. Have you ever given any discretionary authority to any person to execute securities transactions with or through the broker on your behalf? Give names, addresses and phone numbers.	<input type="checkbox"/>	X *
9. Have you or any member of your family ever filed a claim under the Securities Investor Protection Act of 1970? If so, give name of that broker.	<input type="checkbox"/>	X
Please list the full name and address of anyone assisting you in the preparation of this claim form: <u>DAVID KAPLAN, 300 ROBBINS LANE,</u> <u>SYOSSET, NY 11791</u>		

If you cannot compute the amount of your claim, you may file an estimated claim. In that case, please indicate your claim is an estimated claim.

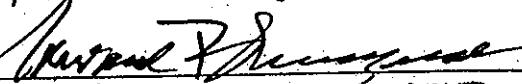
**IT IS A VIOLATION OF FEDERAL LAW TO FILE A FRAUDULENT CLAIM.  
CONVICTION CAN RESULT IN A FINE OF NOT MORE THAN \$50,000 OR  
IMPRISONMENT FOR NOT MORE THAN FIVE YEARS OR BOTH.**

**THE FOREGOING CLAIM IS TRUE AND ACCURATE TO THE BEST OF MY INFORMATION AND BELIEF.**

BDG LAKE GROVE I, LLC  
By: BPG Asset Management, Inc., its General Manager

Date JUNE 24, 2009

Signature

  
EDWARD BLUMENFELD, PRESIDENT

Date \_\_\_\_\_

Signature

(If ownership of the account is shared, all must sign above. Give each owner's name, address, phone number, and extent of ownership on a signed separate sheet. If other than a personal account, e.g., corporate, trustee, custodian, etc., also state your capacity and authority. Please supply the trust agreement or other proof of authority.)

**This customer claim form must be completed and mailed promptly,  
together with supporting documentation, etc. to:**

Irving H. Picard, Esq.,  
Trustee for Bernard L. Madoff Investment Securities LLC  
Claims Processing Center  
2100 McKinney Ave., Suite 800  
Dallas, TX 75201

**BERNARD L. MADOFF**  
INVESTMENT SECURITIES LLC.  
New York □ London

885 Third Avenue  
New York, NY 10022  
(212) 280-2424  
800 334-1343  
Fax (212) 838-4061

Madoff Securities International Limited  
12 Berkeley Street  
Mayfair, London W1J 8DT  
Tel 020 7493 6222

**BERNARD L. MADOFF**  
**INVESTMENT SECURITIES LLC**  
**New York □ London**

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12 Berkeley Street  
 Mayfair, London W1J 8DT  
 Tel 020 7493 6222

1-B0081-3-0      11/30/08      2      \*\*\*\*6934

BULL MARKET FUND  
 F/K/A BLUMENFELD EMPLOYEES  
 C/O BLUMENFELD DEV GROUP LTD.  
 300 ROBBINS LANE  
 SYOSSET  
 NY 11791

BALANCE	DESCRIPTION	OPEN POSITION	CLOSED POSITION	OPEN POSITION	CLOSED POSITION
11/06	17,784	16053 INTEL CORP	16,070 286,499.88		
11/06	9,048	16286 IRVING E. JOHNSON	6,1310 55,093.88		
11/06	1,856	16523 KODAK INC	6,9310 48,502.66		
11/06	4,992	18758 KRAFT FOOD INC	29,2110 145,516.42		
11/06	6,240	16993 MCDONALD'S CORP	44,490 277,866.60		
11/06	3,744	17229 MCDONALD'S CORP	57,900 216,926.60		
11/06	3,744	17633 MCKEE COMPANY	62,310 15,162.66		
11/06	2,184	17698 ALTRIA GROUP INC	63,520 158,967.36		
11/06	6,552	17864 MERCK & CO	19,160 125,798.32		
11/06	2,572	18203 MOLSON COORS BEER	30,780 21,157.92		
11/06	12,192	18638 OCRAZIE CORPORATION	22,710 56,774.12		
11/06	2,808	19343 OCCIDENTAL PETROLEUM CORP	48,110 232,574.12		
11/06	4,992	19578 PENSKEO INC	54,290 152,558.32		
11/06	21,328	19813 PENTEK INC	57,620 286,713.00		
11/06	9,162	20048 PRUDENTIAL GAMBLE CO	64,570 38,160.00		
11/06	6,864	20283 PHILLIP MORRIS INTERNATIONAL	42,730 624,956.00		
11/06	5,304	20516 QUACTION INC	37,810 293,572.72		
11/06	3,744	20703 QUBELLA INC	37,810 20,756.24		
11/06	18,720	20988 AT&T INC	51,460 193,938.44		
11/06	11,544	21223 TIME WARNER INC	26,980 56,813.86		
11/06	3,120	21458 UNITED PARCEL SVC INC	10,060 116,593.84		
11/06	5,616	21693 US BANCORP CLASS A	52,790 164,828.80		
11/06	3,120	21928 UNITED TECHNOLOGIES CORP	29,550 166,176.80		
		CONTINUED ON PAGE 2	54,920 171,474.40		

**BERNARD L. MADOFF**  
**INVESTMENT SECURITIES LLC**  
 New York  London  
 Tel (212) 838-4061

885 Third Avenue  
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 800 334-1243  
 Fax (212) 838-4061

BERNARD L. MADOFF  
 INVESTMENT SECURITIES LLC  
 12 Berkeley Street  
 Mayfair, London W1J 8DT  
 Tel 020 7493 6222

**BULL MARKET FUND**  
**F/K/A BLUMENFELD EMPLOYEES**  
**C/O BLUMENFELD DEV GROUP LTD**  
**300 ROBBINS LANE**  
**SYOSSET**  
**NY 11791**

1-B0081-3-0

11/30/08

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11/30/08

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3

DATE	BOOKING SOURCE	AMOUNT	TYPE	DESCRIPTION	AMOUNT	BOOKING SOURCE
11/06		9,048		22163	29,980	271,620.04
11/06		10,608		22398	33,660	357,489.28
11/06		17,176		WELLS FARGO & CO. NEW YORK	56,560	406,701.00
11/06		16,848		EXAN MOBILE CORP	43,680	177,242,033.46
11/06				FIDELITY SPARTAN		2.54
11/06		18,784		U.S. TREASURY MONEY MARKET FIDELITY SPARTAN	1,064.8	167,764.20
11/06				FIDELITY SPARTAN	1	24,400.00
11/06				U.S. TREASURY BILL	1,99,989	1,99,989.00
11/06				DUE 12/11/2008		
11/06					12/11/2008	
11/06					12/18/2008	
11/06		3,925,000	4,882.4	U.S. TREASURY BILL	99,960	3,923,430.00
11/06				DUE 01/15/2009		
11/06		3,925,000	4,903.3	U.S. TREASURY BILL	99,946	3,922,880.50
11/06				DUE 01/15/2009		
				DUE 01/22/2009		
				DUE 01/22/2009		
				CONTINUED ON PAGE 2		

**BERNARD L. MADOFF**  
**INVESTMENT SECURITIES LLC**  
**New York □ London**

385 Third Avenue  
New York, NY 10022  
(212) 230-2424  
800 334-1343  
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MARVEL JEWELLERY INTERNATIONAL Limited  
12 Berkeley Street  
Mayfair, London W1J 8DT  
Tel 020 7493 6222

11/30/08

4

BULL MARKET FUND  
F/K/A BLUMENFELD EMPLOYEES  
C/O BLUMENFELD DEY GROUP LTD  
300 ROBBINS LANE  
SYOSSET  
NY 11791

1-B0081-3-0

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Date	Symbol	Amount	Description	Rate	Commission	Total
11/06		3,925,000	49461 U.S TREASURY BILL DUE 01/29/2009	99.928		3,922,174.00
11/06		1,630,000	49617 U.S TREASURY BILL DUE 2/12/2009	99.902		1,628,383.00
11/06		2,575,000	50127 U.S TREASURY BILL DUE 02/26/2009	99.802		2,569,901.50
11/06		2,575,000	50356 U.S TREASURY BILL DUE 04/09/2009	99.751		2,568,588.25
11/07		1,944	23404 APPLE INC	99.726		2,567,944.50
11/07		3,456	23639 ABBOTT LABORATORIES	99.800		2,564,534.00
11/07		2,376	23874 AMGEN INC	99.800		2,562,104.00
11/07		1,728	24244 BINGO INC	99.800		2,560,676.00
11/07		1,7018	24244 BANK OF AMERICA	99.800		2,559,248.00
11/07		1,296	24579 BAXTER INTERNATIONAL INC	99.800		2,557,820.00
11/07		3,376	26014 BANK OF NEW YORK MELLON CORP	99.800		2,556,392.00
11/07		4,720	25202 BCI HOLDINGS INC	99.800		2,555,964.00
11/07		1,7512	25282 KAMINSKY BUSCH COS INC	99.800		2,555,536.00
11/07		11,664	25519 CITI GROUP INC	14.410		168,544.24
			AMOUNT ON PAGE	5		

**BERNARD L. MADOFF**  
**INVESTMENT SECURITIES LLC**  
 New York  London  
 300 ROBBINS LANE  
 SYOSSET NY 11791

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Madoff Securities International Limited  
 12 Berkeley Street  
 Mayfair, London W1J 8DT  
 Tel 020 7493 6222

5

1-B0081-3-9

11/30/08

\*\*\*\*\*6934

5

DATE OF PURCHASE

AMOUNT

CASH

MATERIAL

DEBT

CREDIT

EQUITY

INVESTMENT

REAL ESTATE

VALUATION

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**BERNARD L. MADOFF**  
**INVESTMENT SECURITIES LLC**  
 New York    London  
 MADF

885 Third Avenue  
 New York, NY 10022  
 (212) 230-2424  
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 Fax (212) 838-4061

MANUAL MAILING ADDRESS  
 12 Berkeley Street  
 Mayfair, London W1J 8DT  
 Tel 020 7498 6222

11/30/08

6

\*\*\*\*\*6934

**BULL MARKET FUND**  
**F/K/A BLUMENFELD EMPLOYEES**  
**C/O BLUMENFELD DEV GROUP LTD**  
**300 ROBBINS LANE**  
**SYOSSET**  
**NY 11791**

11-80081-33-0

11/30/08

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DATE	TRADE NO.	SO.	TRAN	DESCRIPTION	PRICE	AMOUNT	W/OUT REBATE	W/OUT COMMISSION
11/07		1,728		31864 OCCIDENTAL PETROLEUM CORP.	54.380	94,037.64		
11/07		3,745.6		32099 PERSICO INC	58.630	202,763.28		
11/07		4,768.8		32034 PROCTER & GAMBLE CO	58.180	264,771.00		
11/07		6,690		32369 PHILLIP MORRIS INTERNATIONAL	43.640	198,132.04		
11/07		4,536		32029 QUALCOMM INC	77.630	138,543.68		
11/07		3,672		32172 SCHWEPPES LTD	20.920	362,685.00		
11/07		1,215.28		33509 AT&T INC	10.110	78,926.36		
11/07		7,776		33744 TIME WARNER INC	53.680	116,034.80		
11/07		2,160		33979 UNITED PARCEL SVC INC	56.740	129,866.25		
11/07		3,688		34214 U.S. BANKcorp	56.060	121,046.00		
11/07		2,160		34449 UNITED TECHNOLOGIES CORP	56	192,627.88		
11/07		6,048		34684 VERIZON COMMUNICATIONS	31.810	250,576.52		
11/07		3,416		34919 VISA U.S. TRUSTEE CO. NEW	44.030	282,032.64		
11/07		4,908		35154 WAL-MART STORES INC	75.280	862,262.44		
11/07		11,448		35389 EXXON MOBIL CORP	34			
				U.S. TREASURY MONEY MARKET DIV 11/07/08				
11/07		18,784		FFIDELITY SPARTAN	1		18,784.00	
11/07		2,375,000		U.S. TREASURY MONEY MARKET DUE 02/05/09	2/05/2009		2,375,000.00	
				CONTINUED ON PAGE				

**BERNARD L. MADOFF**  
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**BULL MARKET FUND**  
**F/K/A BLUMENFELD EMPLOYEES**  
**C/O BLUMENFELD DEV GROUP LTD.**

300 ROBBINS LANE  
SYOSSET NY 11791

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12 Berkeley Street

LINE	RECEIVED/PAID/OPEN	AMOUNT	TYPE	DESCRIPTION	DEBTOR/MONTH	AMOUNT RECEIVED	AMOUNT PAID	AMOUNT OPEN
11/07		2,450,000	11382	U S TREASURY BILL		99.887		2,447,231.50
		2,450,000	11397	U S TREASURY BILL		99.889		2,447,280.50
11/07		2,450,000	11397	U S TREASURY BILL		99.889		2,447,280.50
11/07		2,450,000	11397	U S TREASURY BILL		99.889		2,447,280.50
11/07		2,450,000	12010	U S TREASURY BILL		99.840		2,446,080.00
11/07		2,450,000	12141	U S TREASURY BILL		99.720		1,171,710.00
11/07		2,450,000	12361	U S TREASURY BILL		99.672		1,171,134.25
11/07		3,072,999	12581	U S TREASURY BILL		99.600		2,446,080.00
11/10		2,376	35864	APPLE INC.		108.720		2,364,137.72
11/10		4,622	36092	ABOTT LABORATORIES		55.910		236,331.84
11/10		2,902	36334	ARGENTINE		29.020		2,672,952.00
11/10		2,912	36569	BOEING CO		173.220		2,739,209.28
11/10		13,728	36804	BANK OF AMERICA		24.050		330,707.40
				CONTINUATION PAGE				

PLEASE RETAIN THIS STATEMENT FOR INCOME TAX PURPOSES

**BERNARD L. MADOFF**  
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MANUAL VERIFICATION AND SIGNATURES  
12 Berkeley Street  
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Tel 020 7493 6222

8  
11/30/08  
\*\*\*\*\*6934

**BULL MARKET FUND,  
F/K/A BLUMENFELD EMPLOYEES  
C/O BLUMENFELD DEV GROUP LTD  
300 ROBBINS LANE  
SYOSSET  
NY 11791**

1-B0081-3-0

11/30/08  
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DATE	BOUGHT ACROSS SELL ACROSS	DESCRIPTION	AMOUNT PURCHASED TO YOUR ACCOUNT	AMOUNT PURCHASED FROM YOUR ACCOUNT
11/10		3,1848	37039	BAXTER INTERNATIONAL INC
11/10		3,7574	37274	BANK OF NEW YORK-MELLON CORP
11/10		3,7848	37700	BEST BUY COMPANY
11/10	15,048	7,920	37742	BEWEISER-BEWEISER COS LINE
11/10		4,224	37979	CITI GROUP INC
11/10		16,104	38214	COMCAST CORP
11/10		3,960	38449	CONCORDEPIRE
11/10		3,803	38684	CISCO SYSTEMS INC
11/10		5,016	38919	CVS CAREMARK CORP
11/10		28,776	39157	CHEVRON CORP
11/10		528	39157	THE HALL-DISNEY CO
11/10		3,320	39624	GENERAL ELECTRIC CO
11/10		4,752	39859	GOOGLE
11/10		6,854	40094	GOLDMAN SACHS GROUP INC
11/10		3,696	40329	HUBER DENTON INC
11/10		1,256	40364	HEWLETT-PACKARD CO
11/10		7,856	40722	INTERNATIONAL BUSINESS MACHINES
11/10		10,304	41269	JOHNSON & JOHNSON
11/10		4,224	41504	J.P.MORGAN CHASE & CO
11/10		5,544	41734	KRAFT FOOD INC
11/10		3,168	41924	KODAK INC
11/10		3,168	42209	MCDONALDS CORP
			42444	MEDTRONIC INC
				CONTINUED ON PAGE 20

**BERNARD L. MADOFF**  
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MARQUIS SECURITIES ASSOCIATION LIMITED  
 12 Berkeley Street  
 Mayfair, London W1J 8DT  
 Tel 080 7993 6222

11/30/08

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**BULL MARKET FUND**  
**F/K/A BLUMENFELD EMPLOYEES**  
**C/O BLUMENFELD DEV GROUP LTD**  
**300 ROBBINS LANE**  
**SYOSSET** NY 11791

1-B0081-3-0

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DATE BOUGHT OR SOLD INVESTMENT

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**BERNARD L. MADOFF**  
**INVESTMENT SECURITIES LLC**  
 New York  London  
 Fax (212) 838-4061

885 Third Avenue  
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12 Berkeley Street  
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BULL MARKET FUND  
 F/K/A BLUMENFELD EMPLOYEES  
 C/O BLUMENFELD DEV GROUP LTD.  
 300 ROBBINS LANE  
 SYOSSET NY 11791

11-80081-3-0

11/30/08  
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Date	Bought/Shorted	Sold/Shorted	Price	Commission	Chg.	Commission	Chg.	Commission	Chg.
11/10		30,199	12816	FIDELITY SPARTAN	1				30,199.00
11/10		2,600,000	11204	U.S. TREASURY BILL	99.87				2,500,500.00
11/10		2,575,000	13423	U.S. TREASURY BILL	99.87				2,570,725.50
11/10		2,575,000	13625	U.S. TREASURY BILL	99.87				2,569,077.50
11/10		3,750,000	13828	U.S. TREASURY BILL	99.77				3,740,322.00
11/10		1,175,000	14061	U.S. TREASURY BILL	99.87				1,172,205.00
11/10	50,000		14281	"U.S. TREASURY BILL"	99.686				49,843.00
11/10	685		14508	FIDELITY SPARTAN	1				685.00
11/14		10,400	22442	U.S. TREASURY MONEY MARKET CHECK	100.00				100,672.00
11/14				FIDELITY SPARTAN	DIV.				.05
				U.S. TREASURY MONEY MARKET DIV					
				CONTINUED ON PAGE 11					





**BERNARD L. MADOFF**  
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**AMERICAN DOCUMENTS INTERNATIONAL LIMITED**  
12 Berkeley Street  
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Fax (212) 838-4061

11/30/08

12

PLEASE RETAIN THIS STATEMENT FOR INCOME TAX PURPOSES

**BERNARD L. MADOFF**  
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MAURITIUS SECURITIES LIMITED  
 12 Berkeley Street  
 Mayfair, London W1J 0DT  
 Tel 020 7499 6222

11/30/08

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1-B0081-3-0

\*\*\*\*\*#6934

BULL MARKET FUND  
 F/K/A BLUMENFELD EMPLOYEES  
 C/O BLUMENFELD-DEV GROUP LTD  
 300 ROBBINS LANE  
 SYOSSET  
 NY 11791

CONTINUED ON PAGE 14

DATE	STOCK SYMBOL	QUANTITY	AMOUNT DUE	AMOUNT PAID	AMOUNT RECEIVED
11/25	1,568	6697	CONOCOPHILLIPS	45,100	70,778.80
11/25	5,880	67035	CISCO SYSTEMS INC	14,970	88,258.60
11/25	1,713	67213	CYBERDYNE INC	27,040	39,806.00
11/25	2,058	67311	CHEVRON CORP	68,710	141,487.20
11/25	1,862	67387	THE WALT DISNEY CO	19,760	36,867.12
11/25	680	68225	GENERAL ELECTRIC CO	48,740	33,462.64
11/25	30,780	68463	GODDEGE	14,040	15,145.00
11/25	196	68703	HOME DEPOT INC	275	53,907.00
11/25	1,666	68939	HEWLETT PACKARD CO	19,530	32,602.98
11/25	1,372	69177	HILLSDALE INDUSTRIES INC	32,990	80,923.50
11/25	5,684	69215	INTER-CORPORATION	75,080	103,063.70
11/25	2,842	6953	JOHNSON & JOHNSON	52,270	69,969.68
11/25	3,724	69891	J.P. MORGAN CHASE & CO	57,650	163,954.30
11/25	1,419	70129	KRISTEN JOHN INC	27,760	103,526.24
11/25	1,960	70367	LUCA GIGLIACCO	25,900	38,131.00
11/25	1,078	70605	MCDONALDS CORP	55	82,476.40
11/25	1,176	70843	MEDTRONIC INC	30,800	59,333.00
11/25	939	71081	MINC COMPANY	36,267.80	
11/25	2,708	71319	ALTRIA GROUP INC	56,200	40,709.00
11/25	2,156	71557	MERCK & CO	16,250	33,524.50
11/25	7,840	71795	MICROSOFT CORP	25	53,986.00
11/25	3,920	72209	ORACLE CORPORATION	18,100	142,217.00
11/25	882	72747	ACCIDENTAL PETROLEUM CORP	14,050	69,022.00
11/25	1,568	72985	PEPSICO INC	51,800	39,345.44
			CONTINUED ON PAGE 14	81,284.40	

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DEARNOLD, MAJUR  
INVESTMENT SECURITIES LLCNew York  London

New York, NY 10022  
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**BULL MARKET FUND**  
**F/K/A BLUMENFELD EMPLOYEES**  
**C/O BLUMENFELD DEV. GROUP LTD**  
**300 ROBBINS LANE**  
**SYOSSET**  
**NY 11791**

1-B0081-3-0

11/30/08 14

\*\*\*\*\*6934

12 Berkeley Street  
 Mayfair, London W1J 8DT  
 Tel 020 7433 6222

DATE	PORTION RECEIVED	AMOUNT RECEIVED	DESCRIPTION	NUMBER OF SECURITIES	AMOUNT RECEIVED	NUMBER OF SECURITIES
11/25	6,762		73223 PFIZER INC	15,320	103,863.84	
11/25	2,940		73461 PROCTER & GAMBLE CO	61,940	182,220.60	
11/25	2,058		73581 PHILLIPS MORRIS INTERNATIONAL	36,200	144,752.00	
11/25	1,686		73937 QACCOM INC	29,850	49,796.10	
11/25	1,176		74175 SCHLUMBERGER LTD	46,270	54,460.52	
12/25	5,880		74413 VIST INC	2,500	14,74235.00	
11/25	3,626		74489 UNITED PARCEL SVC INC	30,010	23,029.26	
11/25	980		CLASS B	30,760	24,4763.83	
11/25	1,764		75127 U.S. BANKERS	23,400	41,347.60	
11/25	2,980		75265 U.S. TECHNOLOGIES CORP	6,890	40,032.20	
11/25	2,842		75803 VERIZON COMMUNICATIONS	26,570	53,824.94	
11/25	3,822		75841 WELLS FARGO & CO NEW	23,820	91,192.04	
11/25	2,724		76079 WAL-MART STORES INC	51,450	116,058.30	
11/25	1,572		16211 WELLS FARGO & CO	16,200	26,000.00	
11/25	5,292		16555 EXXON MOBIL CORP	72	302,723.63	
11/25			FIDELITY SPARTAN			
11/25			U.S. TREASURY MONEY MARKET			
11/25			FIDELITY SPARTAN			
11/25	9,291	77122	U.S. TREASURY MONEY MARKET	1	9,291.00	
11/25						
11/25	3,725,900	77386	U.S. TREASURY BILL	99,878	3,720,455.50	
11/25						
11/25	42,963	77681	FIDELITY SPARTAN	1	42,963.00	
			U.S. TREASURY MONEY MARKET			
			CONTINUED ON PAGE 15			

**BERNARD L. MADOFF**  
INVESTMENT SECURITIES LLC  
New York □ London

882 Irving Avenue  
New York, NY 10022  
(212) 230-2424  
800 334-1343

12 Berkeley Street  
Mayfair, London W1 8DT  
Tel 020 7493 6222

			DESCRIPTION	AMOUNT
11/26	13,426	5,000.00	CHECK	5,000.00
11/28	100	78108	FIDELITY SPARTAN MONEY MARKET	1
11/28		78420	BAXTER INTERNATIONAL INC.	1
11/28			CHECK	52,640.00
11/28			FIDELITY SPARTAN MONEY MARKET	1
11/28			U.S. TREASURY MONEY MARKET	1
11/28			DIV 11/28/06	2.26
11/28		47,963	FIDELITY SPARTAN	1
11/28		78257	U.S. TREASURY MONEY MARKET	1
11/28		78124	FIDELITY SPARTAN	1
11/28		3,226	U.S. TREASURY MONEY MARKET	1
			NEW BALANCE	5,110,352.95
			SECURITY POSITIONS	
			MKT PRICE	
	53,496	AT&T INC	28.560	
	14,240	ABBOTT LABORATORIES	52.390	
	18,690	ALTRIA GROUP INC	16.000	
	9,790	AMGEN INC	52.340	
	8,010	APPLE INC	92.670	
	45,966	BANK OF AMERICA	16.250	
	10,564	BAKER INTERNATIONAL INC	30.210	
	21,584	BOEING CO	42.630	

CONTINUED ON PAGE 16

PLEASE RETAIN THIS STATEMENT FOR INCOME TAX PURPOSES

DO NOT RESEND THIS STATEMENT FOR INCOME TAX PURPOSES

**BERNARD L. MADOFF**  
**INVESTMENT SECURITIES LLC**  
**New York □ London**

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 Fax (212) 838-4061

12 Berkeley Street  
 Mayfair, London W1J 8DT  
 Tel 020 7493 6222

11/30/08

16

1-B0081-3-0

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BULL MARKET FUND  
 F/K/A BLUMENFELD EMPLOYEES  
 C/O BLUMENFELD DEV GROUP LTD  
 300 ROBBINS LANE  
 SYOSSET  
 NY 11791

DATE BOUGHT OR SOLD LONG	SOLD OR PURCHASED SHORT	DESCRIPTION	PRICE OR VALUE	NUMBER OF SHARES PURCHASED OR SOLD	AMOUNT PAID PER SHARE
18,064		BRISTOL MYERS SQUIBB COMPANY	20.700		
13,134		CVS CAREMARK CORP	20.920		
18,954		CHEVRON CORP	70.010		
53,780		CISCO-SYSTEMS INC	16.540		
49,868		CITI GROUP INC	8.290		
18,164		COCACOLA CO	66.870		
490		COLEMAN INDUSTRIES CO	16.070		
26,386		CONCAST-CORP	17.320		
14,924		CONGOCOMPHIS	52.520		
17,222		CONTINENTAL IND INC	22.320		
686		EXELON CORP	50.210		
47,844		EXXON MOBIL CORP	80.150		
95,620		GENERAL ELECTRIC CO	17.170		
3,432		GOBLIN ASSETS HOLDING	262.950		
1,780		GOOGLE			
22,514		HENLETT PACKARD CO	35.280		
15,706		HOME DEPOT INC	23.110		
51,140		INTEL CORP	23.000		
12,460		INTERNATIONAL BUSINESS MACHINES	69.260		
33,820		J.P. MORGAN CHASE & CO	31.660		
25,594		JOHNSON & JOHNSON	58.580		
13,926		KRANTZ JUDY INC	298.750		
10,366		MCDONALDS CORP	30.520		
10,464		MEDTRONIC INC			
		CONTINUED ON PAGE 27			

**BERNARD L. MADOFF  
INVESTMENT SECURITIES LLC**  
New York □ London

885 Third Avenue  
New York, NY 10022  
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800 334-1343  
Fax (212) 838-4061

**ARMES INTERNATIONAUX LIMITED**  
12 Berkeley Street  
Mayfair, London W1J 8DT  
Tel 020 7493 6222

DATE	RECEIVED FOR LONG	DELIVERED FOR SHORT	TRN	DESCRIPTION	PRICE OR SHARE	QUANTITY	QUANTITY	AMOUNT RECEIVED
				MERCK & CO	19.580			
	7,776			MICROSOFT CORP	7.794	71,776		20.220
				DUCHESS TRUST CORP	36.176			12.120
				ORACLE CORPORATION	14.240			16.090
				PEPSICO INC	61.722			56.700
				PEZER INC	19.002			16.430
				PROCTER & GAMBLE CO	27.492			21.160
				QUALCOMM INC	15.130			64.350
				SCHLUMBERGER LTD	10.844			33.570
				U.S. TREASURY MONEY MARKET FUND	3.226			50.740
				3M COMPANY	6,230			9.050
				TIME WARNER INC	22.050			66.930
				UNITED PARCEL SERVICE CLASS B	16,020			26.280
				UNITED PARCEL SERVICE	8,900			57.630
				UNITED TECHNOLOGIES CORP	8,900			48.530
				VERIZON COMMUNICATIONS	25.7858			32.900
				WAL-MART STORES INC	20.470			35.880
				WELLS FARGO & CO NEW	30,750			28.890
				WMTW	1,372			36.010
				MARKET VALUE OF SECURITY				
				LONG	37.919			
				SHORT	842.86			

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**BERNARD L. MADOFF**  
INVESTMENT SECURITIES LLC  
New York □ London

885 Third Avenue  
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800 334-1343  
Fax (212) 838-4061

**INDIAWELL JEWELLERS LTD.** ESTABLISHED 1890

**BULL MARKET FUND**  
**F/K/A BLUMENFELD EMPLOYEES**  
**C/O BLUMENFELD DEV GROUP LTD.**  
**300 ROBBINS LANE**

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1-80081-4-00

11/30/08

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RECEIVED OR ONGOING	DEPARTMENT	DESCRIPTION	AMOUNT RECEIVED	AMOUNT OUTSTANDING
		BALANCE FORWARD		1,428,341.00
11/06	312	312 SEP 100 INDEX NOVEMBER 475 CALL	633,068.00	
11/06	312	S & P 100 INDEX NOVEMBER 460 PUT	20,500	639,912.00
11/07	216	216 SEP 100 INDEX NOVEMBER 475 CALL	22	639,912.00
11/07	216	S & P 100 INDEX NOVEMBER 460 PUT	13,800	298,296.00
11/08	264	44089 S & P 100 INDEX NOVEMBER 475 PUT	16,800	443,784.00
11/13	792	30065 SEP 100 INDEX DECEMBER 450 CALL	2	443,784.00
11/19	792	30303 S & P 100 INDEX DECEMBER 420 PUT	30	2,376,792.00
11/19	264	20541 NOVEMBER 475 CALL NOVEMBER 475 CALL	3,500	2,376,792.00
11/19	264	30779 S & P 100 INDEX NOVEMBER 430 CALL	900	24,024.00
11/19	264	31017 SEP 100 INDEX NOVEMBER 460 PUT	45	24,024.00
11/19	264	31255 S & P 100 INDEX NOVEMBER 475 PUT	59	1,557,336.00
		CONTINUED ON PAGE 2		

PLEASE RETAIN THIS STATEMENT FOR INCOME TAX PURPOSES.



BERNARDI MADDELL

**DEUTSCHE M&P  
INVESTMENT SECURITIES LLC**  
New York □ London

883 Third Avenue  
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800 334-1343  
Fax (212) 838-4061

11/30/08

N

12 Berkeley Street  
Mayfair, London W1J 8DT  
Tel 020 7493 6222

DATE	OPENING POSITION	CLOSING POSITION	DESCRIPTION	OPENING PRICE	CLOSING PRICE	CHG/ADJ.
11/25 11425	98	72033	S E P 100 INDEX DECEMBER 380 CALL S E P 100 INDEX DECEMBER 370 PUT	34	333,102.00	
			NEW BALANCE SECURITY POSITIONS			
		792	S E P 100 INDEX DECEMBER 420 CALL S E P 100 INDEX DECEMBER 380 CALL	23.300	21	202,896.00
		792	S E P 100 INDEX DECEMBER 420 CALL S E P 100 INDEX DECEMBER 380 CALL	61	61	
		98	S E P 100 INDEX DECEMBER 420 CALL S E P 100 INDEX DECEMBER 370 PUT	16.500	5,200	
			MARKET VALUE OF SECURITIES			
			Long 1,358,780.00 Short 2,442,3760.00			

PLEASE RETAIN THIS STATEMENT FOR INCOME TAX PURPOSES.



**MEMORANDUM**

**TO:** BDG Lake Grove 1, LLC  
**FROM:** Harvey Cohen  
**RE:** Bull Market Fund  
**DATE:** December 31, 2008

---

Please find below your balance in the Bull Market Fund as of December 10, 2008. This includes your November 30, 2008 balance plus any additions, if applicable, made subsequent to November 30, 2008 and sent to Bernard L. Madoff Investment Securities, LLC.

Account Balance as of December 10, 2008: \$1,041,851

Please call me if I can be of further service.

**BDG Lake Grove I, LLC  
Operating Agreement**

This Operating Agreement (this "Agreement") is entered into as of this 12th day of March, 2003, by and among BDG Asset Management, Inc., as General Manager and the Members who are the signatories hereto.

**EXPLANATORY STATEMENT**

The parties have agreed to organize and operate a limited liability company in accordance with the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the parties, intending legally to be bound, agree as follows:

**Article I  
Defined Terms**

The following terms shall have the meanings specified in this Article I. Other terms are defined in the text of this Agreement; and, throughout this Agreement, those terms shall have the meanings respectively ascribed to them in their definitions.

"Adjusted Capital Account Deficit" means, with respect to any Interest Holder, the deficit balance, if any, in the Interest Holder's Capital Account as of the end of the relevant taxable year, after giving effect to the following adjustments:

(i) the deficit shall be decreased by the amounts which the Interest Holder is obligated to restore pursuant to Section 4.4.2 or is deemed obligated to restore pursuant to Regulation Section 1.704-1(b)(2)(ii)(c); and

(ii) the deficit shall be increased by the items described in Regulation Sections 1.704-1(b)(2)(ii)-(d)(4), (5), and (6).

"Adjusted Capital Balance" means, as of any day, an Interest Holder's total Capital Contributions less all amounts actually distributed to the Interest Holder pursuant to Sections 4.2.3.4.1 and 4.4 hereof. If any Interest is transferred in

accordance with the terms of this Agreement, the transferee shall succeed to the Adjusted Capital Balance of the transferor to the extent the Adjusted Capital Balance relates to the Interest transferred.

"Affiliate" means, with respect to any Member or the General Manager, any Person: (i) which owns more than 50% of the voting interests in the Member; or (ii) in which the Member owns more than 50% of the voting interests; or (iii) in which more than 50% of the voting interests are owned by a Person who has a relationship with the Member described in clause (i) or (ii) above, or (iv) who otherwise controls, is controlled by, or under common control with, another Person.

"Agreement" means this Operating Agreement, as amended from time to time.

"Assumed Tax Rate" means the highest effective marginal combined federal, state and local income tax rate applicable to capital gains or to the extent that this definition is operative with regard to such gains prescribed for the relevant Interest Holder in a taxable year (taking into account the deductibility of the state and local income taxes for federal income tax purposes).

"Capital Account" means the account to be maintained by the Company for each Interest Holder in accordance with the following provisions:

(i) an Interest Holder's Capital Account shall be credited with the Interest Holder's Capital Contributions, the amount of any Company liabilities assumed by the Interest Holder (or which are secured by Company property distributed to the Interest Holder), the Interest Holder's distributive share of Profit and any item in the nature of income or gain specially allocated to the Interest Holder pursuant to the provisions of Article IV (other than Section 4.3.3); and

(ii) an Interest Holder's Capital Account shall be debited with the amount of money and the fair market value of any Company property distributed to the Interest Holder, the amount of any liabilities of the Interest Holder assumed by the Company (or which are secured by property contributed by the Interest Holder to the Company), the Interest Holder's distributive share of Loss and any item in the nature of expenses or losses specially allocated to

the Interest Holder pursuant to the provisions of Article IV (other than Section 4.3.3).

If any Interest is transferred pursuant to the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent the Capital Account is attributable to the transferred Interest. If the book value of Company property is adjusted pursuant to Section 4.3.3, the Capital Account of each Interest Holder shall be adjusted to reflect the aggregate adjustment in the same manner as if the Company had recognized gain or loss equal to the amount of such aggregate adjustment. It is intended that the Capital Accounts of all Interest Holders shall be maintained in compliance with the provisions of Regulation Section 1.704-1(b), and all provisions of this Agreement relating to the maintenance of Capital Accounts shall be interpreted and applied in a manner consistent with that Regulation.

"Capital Contribution" means the total amount of cash and the fair market value of any other assets contributed (or deemed contributed under Regulation Section 1.704-1(b) (2) (iv) (d)) to the Company by a Member, net of liabilities assumed or to which the assets are subject.

"Capital Proceeds" means the gross receipts received by the Company from a Capital Transaction.

"Capital Transaction" means any transaction not in the ordinary course of business which results in the Company's receipt of cash or other consideration other than Capital Contributions, including, without limitation, proceeds of sales or exchanges or other dispositions of property not in the ordinary course of business, financings, refinancings, condemnations, recoveries of damage awards, and insurance proceeds.

"Cash Flow" means all cash funds derived from operations of the Company (including interest received on reserves), without reduction for any non-cash charges, but less cash funds used to pay current operating expenses and to pay or establish reasonable reserves for future expenses, debt payments (excluding any repayments of principal in respect of Loans as defined in Section 3.7), capital improvements, and replacements as determined by the General Manager. Cash Flow shall not include Capital Proceeds but shall be increased by the reduction of any reserve previously established.

"Code" means the Internal Revenue Code of 1986, as amended, or any corresponding provision of any succeeding law.

"Company" means the limited liability company formed in accordance with this Agreement.

"Family" means a Member's or a partner of a Member's spouse, lineal ancestors or descendants by birth or adoption, siblings, and trusts for the exclusive benefit of a Member or a partner of a Member or any of the foregoing individuals.

"General Manager" means the Person designated as such in Article V.

"Interest" means a Person's share of the Profits and Losses of, and the right to receive distributions from, the Company.

"Interest Holder" means any Person who holds an Interest, whether as a Member or an unadmitted assignee of a Member.

"Involuntary Withdrawal" means, with respect to any Member, the occurrence of any of the following events:

(i) the Member makes an assignment for the benefit of creditors;

(ii) the Member files a voluntary petition of bankruptcy;

(iii) the Member is adjudged bankrupt or insolvent or there is entered against the Member an order for relief in any bankruptcy or insolvency proceeding;

(iv) the Member files a petition seeking for the Member any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;

(v) the Member seeks, consents to, or acquiesces in the appointment of a trustee for, receiver for, or liquidation of the Member or of all or any substantial part of the Member's properties;

(vi) the Member files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Member in any proceeding described in Subsections (i) through (v);

(vii) any proceeding against the Member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, continues for one hundred twenty (120) days after the commencement thereof, or the appointment of a trustee, receiver, or liquidator for the Member or all or any substantial part of the Member's properties without the Member's agreement or acquiescence, which appointment is not vacated or stayed for one hundred twenty (120) days or, if the appointment is stayed, for one hundred twenty (120) days after the expiration of the stay during which period the appointment is not vacated;

(viii) if the Member is an individual, the Member's death, incapacity, or adjudication by a court of competent jurisdiction as incompetent to manage the Member's person or property;

(ix) if the Member is acting as a Member by virtue of being a trustee of a trust, the termination of the trust;

(x) if the Member is a partnership or limited liability company, the dissolution and commencement of winding up of the partnership or limited liability company;

(xi) if the Member is a corporation, the dissolution of the corporation or the revocation of its charter;

(xii) if the Member is an estate, the distribution by the fiduciary of the estate's entire interest in the Company;

"Law" means the New York Limited Liability Company Law, as amended from time to time.

"Member" means each Person who has signed this Agreement and any Person who subsequently is admitted as a member of the Company.

"Membership Interest" means all of the rights of a Member in the Company, including a Member's: (i) Interest; (ii) right to inspect the Company's books and records; and (iii) right to participate in the management of and vote on matters coming before the Company.

"Member Loan Nonrecourse Deductions" means any Company deductions that would be Nonrecourse Deductions if they were not attributable to a loan made or guaranteed by a Member within the meaning of Regulation Section 1.704-2(i).

"Minimum Gain" has the meaning set forth in Regulation Section 1.704-2(d). Minimum Gain shall be computed separately for each Interest Holder in a manner consistent with the Regulations under Code Section 704(b).

"Negative Capital Account" means a Capital Account with a balance of less than zero.

"Nonrecourse Deductions" has the meaning set forth in Regulation Section 1.704-2(b) (1). The amount of Nonrecourse Deductions for a taxable year of the Company equals the net increase, if any, in the amount of Minimum Gain during that taxable year, determined according to the provisions of Regulation Section 1.704-2(c).

"Nonrecourse Liability" means any liability of the Company with respect to which no Member has personal liability, as determined in accordance with Code Section 752 and the Regulations promulgated thereunder.

"Person" means and includes an individual, corporation, partnership, association, limited liability company, trust, estate, or other entity.

"Positive Capital Account" means a Capital Account with a balance greater than zero.

"Profit" and "Loss" means, for each taxable year of the Company (or other period for which Profit or Loss must be computed), the Company's taxable income or loss determined in accordance with Code Section 703(a), with the following adjustments:

(i) all items of income, gain, loss, deduction, or credit required to be stated separately pursuant to Code Section 703(a)(1) shall be included in computing taxable income or loss; and

(ii) any tax-exempt income of the Company, not otherwise taken into account in computing Profit or Loss, shall be included in computing taxable income or loss; and

(iii) any expenditures of the Company described in Code Section 705(a)(2)(B) (or treated as such pursuant to Regulation Section 1.704-1(b)(2)(iv)(i)) and not otherwise taken into account in computing Profit or Loss, shall be subtracted from taxable income or loss; and

(iv) gain or loss resulting from any taxable disposition of Company property shall be computed by reference to the adjusted book value of the property disposed of, notwithstanding the fact that the adjusted book value differs from the adjusted basis of the property for federal income tax purposes; and

(v) in lieu of the depreciation, amortization, or cost recovery deductions allowable in computing taxable income or loss, there shall be taken into account the depreciation computed based upon the adjusted book value of the asset; and

(vi) notwithstanding any other provision of this definition, any items which are specially allocated pursuant to Section 4.3 hereof shall not be taken into account in computing Profit or Loss.

"Regulation" means the income tax regulations, including any temporary regulations, from time to time promulgated under the Code.

"Transfer" means, when used as a noun, any sale, hypothecation, pledge, assignment, encumbrance, or other transfer, and, when used as a verb, means to sell, hypothecate, pledge, transfer, assign, encumber or otherwise dispose of.

"Units" means, as to a Member, the number of Units set forth after the Member's name on Exhibit A, as amended from time to time, and as to an Interest Holder who is not a Member, the number of Units of the Member whose Interest has been acquired by such Interest Holder, to the extent the Interest Holder has succeeded to that Member's Interest.

"Voluntary Withdrawal" means a Member's disassociation with the Company by means other than a Transfer or an Involuntary Withdrawal.

**Article II**  
**Formation and Name; Office; Purpose; Term**

2.1. *Organization.* The parties hereby organize a limited liability company pursuant to the Law and the provisions of this Agreement and, for that purpose, have caused Articles of Organization to be prepared, executed and filed with the New York Department of State on November 8, 2000.

2.2. *Name of the Company.* The name of the Company shall be BDG Lake Grove I, LLC. The Company may do business under that name and under any other name or names which the General Manager selects. If the Company does business under a name other than that set forth in its Articles of Organization, then the Company shall file a certificate with the Department of State as required by General Business Law § 130. The Company's principal place of business shall be located at 6800 Jericho Turnpike, Syosset, New York 11791 or at such other location as may be selected by the General Manager from time to time. The General Manager shall give notice to the Members of any change in the location of the principal place of business of the Company.

2.3. *Purpose.* The Company is organized solely to purchase, acquire, sell, own, trade in, hold, develop, lease, manage, subdivide and otherwise deal in and with that certain parcel of real property, containing approximately 16 acres, and improvements thereon with frontage on New York State Route 347, Lake Grove in Suffolk County, New York, identified as District 208, Section 10, Block 1, Lot 29.001 on the Suffolk County Tax Map (the "Property") and to do any and all things necessary, convenient, or incidental to that purpose.

2.4. *Term.* The Company was formed on November 8, 2000 by the filing of the Articles of Organization with the New York State Department of State and shall have a perpetual existence, unless its existence is sooner terminated pursuant to Article VII of this Agreement.

2.5. *Agent for Service of Process.* The Secretary of State is designated as agent of the Company upon whom process against it may be served. The post office address within or without

this state to which the Secretary of State shall mail a copy of any process against the Company served upon him or her is:

c/o Blumenfeld Development Group, Ltd.  
6800 Jericho Turnpike  
Syosset, New York 11791

2.6. *Members.* The name, present mailing address, taxpayer identification number and number of Units held by each Member of the Company are set forth on Exhibit A attached hereto.

**Article III**  
**Members; Capital; Capital Accounts**

3.1. *Initial Capital Contributions.* Upon the execution of this Agreement, the Members shall contribute to the Company cash in the amounts respectively set forth on Exhibit A as their respective initial capital contribution.

3.2. *No Additional Capital Contributions.* No Member shall be required to contribute any additional capital to the Company, and no Member shall have any personal liability for any debt, obligation, or liability of the Company, including compensation to and/or indemnification of the General Manager.

3.3. *No Interest on Capital Contributions.* Interest Holders shall not be paid interest on their Capital Contributions.

3.4. *Return of Capital Contributions.* Except as otherwise provided in this Agreement, no Interest Holder shall have the right to receive any return of any Capital Contribution.

3.5. *Form of Return of Capital.* If an Interest Holder is entitled to receive a return of a Capital Contribution, the Interest Holder shall not have the right to receive anything but cash in return of the Interest Holder's Capital Contribution.

3.6. *Capital Accounts.* A separate Capital Account shall be maintained for each Interest Holder.

3.7. *Loans.* Any Member or a partner of a Member may, at any time, make or cause a loan to be made to the Company in any amount and on such arms' length commercially reasonable terms as shall be determined by the General Manager. The General Manager may, at any time, make or cause a loan to be made to the Company

in any amount and on such arms' length commercially reasonable terms as approved by a majority in interest of the Members. If a Member or the General Manager makes a loan to the Company, such Person may be referred to herein as a "Lending Party," and such loan may be referred to herein as a "Loan."

**Article IV**  
**Profit, Loss, and Distributions**

**4.1. Distributions of Cash Flow and Allocations of Profit or Loss Other than Capital Transactions.**

**4.1.1. Profit or Loss Other Than from a Capital Transaction.** After giving effect to the special allocations set forth in Section 4.3, for any taxable year of the Company, Profit or Loss (other than Profit or Loss resulting from a Capital Transaction, which Profit or Loss shall be allocated in accordance with the provisions of Sections 4.2.1 and 4.2.2) shall be allocated to the Interest Holders in proportion to the number of Units held by the respective Interest Holders.

**4.1.2. Mandatory Cash Flow.** Cash Flow for each taxable year of the Company shall be distributed no later than seventy-five (75) days after the end of the taxable year in the following order of priority:

**4.1.2.1.** First, to the Interest Holders until each Interest Holder has been distributed Cash Flow equal to the product of (x) the Assumed Tax Rate for the taxable year in which an allocation is made to it under Section 4.1.1. hereof and (y) the Profits allocated to it (reduced by any Losses previously allocated to such Interest Holder that have not previously been taken into account under this Section 4.1.2.1.);

**4.1.2.2.** Second, to the Lending Party up to the amount, if any, of the principal payable on their respective Loan; and

**4.1.2.3.** Third, to the Interest Holders in proportion to the number of Units held by the respective Interest Holders.

*4.2. Distributions of Capital Proceeds and Allocation of Profit or Loss from Capital Transactions.*

4.2.1. *Profit.* After giving effect to the special allocations set forth in Section 4.3., Profit from a Capital Transaction shall be allocated as follows:

4.2.1.1. If one or more Interest Holders has a Negative Capital Account, to those Interest Holders, in proportion to their Negative Capital Accounts, until all of those Negative Capital Accounts have been increased to zero.

4.2.1.2. Any Profit not allocated pursuant to Section 4.2.1.1 shall be allocated to the Interest Holders in proportion to, and to the extent of, the amounts distributable to them pursuant to Section 4.2.3.4.1 and 4.2.3.4.2.

4.2.2. *Loss.* After giving effect to the special allocations set forth in Section 4.3., Loss from a Capital Transaction shall be allocated as follows:

4.2.2.1. If one or more Interest Holders has a Positive Capital Account, to those Interest Holders, in proportion to their Positive Capital Accounts, until all Positive Capital Accounts have been reduced to zero.

4.2.2.2. Any Loss not allocated to reduce Positive Capital Accounts to zero pursuant to Section 4.2.2.1 shall be allocated to the Interest Holders in proportion to the number of Units held by the respective Interest Holders.

4.2.3. *Capital Proceeds.* Capital Proceeds shall be distributed and applied by the Company in the following order and priority:

4.2.3.1. to the payment of all expenses of the Company incident to the Capital Transaction; then

4.2.3.2. to the payment of debts and liabilities of the Company then due and outstanding (including all debts due to any Interest Holder); then

4.2.3.3. to the establishment of any reserves which the General Manager deems necessary for liabilities or obligations of the Company; then

4.2.3.4. the balance shall be distributed as follows:

4.2.3.4.1. to the Interest Holders in proportion to their Adjusted Capital Balances, until their remaining Adjusted Capital Balances have been paid in full;

4.2.3.4.2. the balance, to the Interest Holders in proportion to the number of Units held by the respective Interest Holders.

4.3. *Regulatory Allocations.*

4.3.1. *Qualified Income Offset.* No Interest Holder shall be allocated Losses or deductions if the allocation causes the Interest Holder to have an Adjusted Capital Account Deficit. If an Interest Holder receives (1) an allocation of Loss or deduction (or item thereof) or (2) any distribution, which causes the Interest Holder to have an Adjusted Capital Account Deficit at the end of any taxable year, then all items of income and gain of the Company (consisting of a pro rata portion of each item of Company income, including gross income and gain) for that taxable year shall be allocated to that Interest Holder, before any other allocation is made of Company items for that taxable year, in the amount and in proportions required to eliminate the excess as quickly as possible. This Section 4.3.1 is intended to comply with, and shall be interpreted consistently with, the "qualified income offset" provisions of the Regulations promulgated under Code Section 704(b).

4.3.2. *Minimum Gain Chargeback.* Except as set forth in Regulation Section 1.704-2(f)(2), (3), and (4), if, during any taxable year, there is a net decrease in Minimum Gain, each Interest Holder, prior to any other allocation pursuant to this Article IV, shall be specially allocated items of gross income and gain for such taxable year (and, if necessary, subsequent taxable years) in an amount equal to that Interest Holder's share of the net decrease of Minimum Gain, computed in accordance with Regulation Section 1.704-2(g). Allocations of gross income and gain

pursuant to this Section 4.3.2 shall be made first from gain recognized from the disposition of Company assets subject to nonrecourse liabilities (within the meaning of the Regulations promulgated under Code Section 752), to the extent of the Minimum Gain attributable to those assets, and thereafter, from a pro rata portion of the Company's other items of income and gain for the taxable year. It is the intent of the parties hereto that any allocation pursuant to this Section 4.3.2 shall constitute a "minimum gain chargeback" under Regulation Section 1.704-2(f).

**4.3.3. Contributed Property and Book-ups.** In accordance with Code Section 704(c) and the Regulations thereunder, as well as Regulation Section 1.704-1(b)(2)(iv)(d)(3), income, gain, loss, and deduction with respect to any property contributed (or deemed contributed) to the Company shall, solely for tax purposes, be allocated among the Interest Holders so as to take account of any variation between the adjusted basis of the property to the Company for federal income tax purposes and its fair market value at the date of contribution (or deemed contribution). If the adjusted book value of any Company asset is adjusted as provided herein, subsequent allocations of income, gain, loss, and deduction with respect to the asset shall take account of any variation between the adjusted basis of the asset for federal income tax purposes and its adjusted book value in the manner required under Code Section 704(c) and the Regulations thereunder.

**4.3.4. Code Section 754 Adjustment.** To the extent an adjustment to the tax basis of any Company asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulation Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of the adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases basis), and the gain or loss shall be specially allocated to the Interest Holders in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to that Section of the Regulations.

**4.3.5. Nonrecourse Deductions.** Nonrecourse Deductions for a taxable year or other period shall be specially allocated among the Interest Holders in proportion to the number of Units held by the respective Interest Holders.

4.3.6. *Member Loan Nonrecourse Deductions.* Any Member Loan Nonrecourse Deduction for any taxable year or other period shall be specially allocated to the Interest Holder who bears the risk of loss with respect to the loan to which the Member Loan Nonrecourse Deduction is attributable in accordance with Regulation Section 1.704-2(b).

4.3.7. *Guaranteed Payments.* To the extent any compensation paid to any Member by the Company, including any fees payable to any Member pursuant to Section 5.3 hereof, is determined by the Internal Revenue Service not to be a guaranteed payment under Code Section 707(c) or is not paid to the Member other than in the Person's capacity as a Member within the meaning of Code Section 707(a), the Member shall be specially allocated gross income of the Company in an amount equal to the amount of that compensation, and the Member's Capital Account shall be adjusted to reflect the payment of that compensation.

\* 4.3.8. *Unrealized Receivables.* If an Interest Holder's Interest is reduced (provided the reduction does not result in a complete termination of the Interest Holder's Interest), the Interest Holder's share of the Company's "unrealized receivables" and "substantially appreciated inventory" (within the meaning of Code Section 751) shall not be reduced, so that, notwithstanding any other provision of this Agreement to the contrary, that portion of the Profit otherwise allocable upon a liquidation or dissolution of the Company pursuant to Section 4.4 hereof which is taxable as ordinary income (recaptured) for federal income tax purposes shall, to the extent possible without increasing the total gain to the Company or to any Interest Holder, be specially allocated among the Interest Holders in proportion to the deductions (or basis reductions treated as deductions) giving rise to such recapture. Any questions as to the aforesaid allocation of ordinary income (recapture), to the extent such questions cannot be resolved in the manner specified above, shall be resolved by the General Manager.

4.3.9. *Withholding.* All amounts required to be withheld pursuant to Code Section 1446 or any other provision of federal, state, or local tax law shall be treated as amounts actually distributed to the affected Interest Holders for all purposes under this Agreement.

*4.4. Liquidation and Dissolution.*

4.4.1. If the Company is liquidated, the assets of the Company which shall have been reduced to cash in accordance with Section 7.2 shall be distributed to the Interest Holders in accordance with the provisions of Section 4.2.3.4.

4.4.2. No Interest Holder shall be obligated to restore a Negative Capital Account.

*4.5. General.*

4.5.1. Except as otherwise provided in this Agreement, the timing and amount of all distributions shall be determined by the General Manager.

4.5.2. If any assets of the Company are distributed in kind to the Interest Holders, those assets shall be valued on the basis of their fair market value, and any Interest Holder entitled to any interest in those assets shall receive that interest as a tenant-in-common with all other Interest Holders so entitled. Unless the Members otherwise agree, the fair market value of the assets shall be determined by an independent appraiser who shall be selected by the General Manager. The Profit or Loss for each unsold asset shall be determined as if the asset had been sold at its fair market value, and the Profit or Loss shall be allocated as provided in Section 4.2 and shall be properly credited or charged to the Capital Accounts of the Interest Holders prior to the distribution of the assets in liquidation pursuant to Section 4.4.

4.5.3. All Profit and Loss shall be allocated, and all distributions shall be made to the Persons shown on the records of the Company to have been Interest Holders as of the last day of the taxable year for which the allocation or distribution is to be made. Notwithstanding the foregoing, unless the Company's taxable year is separated into segments, if there is a Transfer or an Involuntary Withdrawal during the taxable year, the Profit and Loss shall be allocated between the original Interest Holder and the successor on the basis of the number of days each was an Interest Holder during the taxable year; provided, however, the Company's taxable year shall be segregated into two or more segments in order to account for Profit,

Loss, or proceeds attributable to a Capital Transaction or to any other extraordinary nonrecurring items of the Company.

4.5.4. The General Manager is hereby authorized, upon the advice of the Company's tax counsel, to amend this Article IV to comply with the Code and the Regulations promulgated under Code Section 704(b); provided, however, that no amendment shall materially affect distributions to an Interest Holder without the Interest Holder's prior written consent.

**Article V**  
**Management: Rights, Powers, and Duties**

**5.1. Management.**

5.1.1. *General Manager.* The Company shall be managed by a General Manager, who may, but need not, be a Member. BDG Asset Management, Inc. is hereby designated to serve as the initial General Manager. The Members who are the signatories hereto, hereby ratify and confirm all proceedings and acts heretofore taken by the General Manager, its officers and directors in furtherance of the purpose of the Company provided in Section 2.3 hereof.

5.1.2. *General Powers.* The General Manager shall have full, exclusive, and complete discretion, power, and authority, subject in all cases to the other provisions of this Agreement and the requirements of applicable law, to manage, control, administer, and operate the business and affairs of the Company for the purposes herein stated, and to make all decisions affecting such business and affairs, including, without limitation, for Company purposes, the power to:

5.1.2.1. acquire by purchase, lease, or otherwise, any real or personal property, tangible or intangible;

5.1.2.2. construct (including demolition in connection therewith), operate, maintain, finance, and improve, and to own, sell, convey, assign, mortgage, or lease any real estate and any personal property;

5.1.2.3. sell, dispose, trade, or exchange Company assets in the ordinary course of the Company's business;

5.1.2.4. enter into agreements and contracts, including, but not limited to, contracts of guaranty and suretyship, and to give receipts, releases, and discharges;

5.1.2.5. purchase liability and other insurance to protect the Company's properties and business;

5.1.2.6. borrow money for and on behalf of the Company;

5.1.2.7. execute or modify leases with respect to any part or all of the assets of the Company;

5.1.2.8. prepay, in whole or in part, refinance, amend, modify, or extend any mortgages or deeds of trust which may affect any asset of the Company and in connection therewith to execute for and on behalf of the Company any extensions, renewals, or modifications of such mortgages or deeds of trust;

5.1.2.9. execute any and all other instruments and documents which may be necessary or in the opinion of the General Manager desirable to carry out the intent and purpose of this Agreement, including, but not limited to, deeds, contracts, leases, mortgages, deeds of trust, promissory notes, security agreements, financing statements pertaining to the Company's assets or obligations, and documents whose operation and effect extend beyond the term of the Company;

5.1.2.10. make any and all expenditures which the General Manager, in its sole discretion, deems necessary or appropriate in connection with the management of the affairs of the Company and the carrying out of its obligations and responsibilities under this Agreement, including, without limitation, all legal, accounting and other related expenses incurred in connection with the organization and financing and operation of the Company;

5.1.2.11. enter into any kind of activity necessary to, in connection with, or incidental to, the accomplishment of the purposes of the Company; and

5.1.2.12. invest and reinvest Company reserves in liquid investments that the General Manager in its sole discretion deems appropriate which need not be limited to government securities and similar investments.

5.1.3. *Extraordinary Transactions.* Notwithstanding anything contained in this Agreement to the contrary, (a) during such time that a Lending Party has (x) made a Loan to the Company which remains outstanding or (y) guaranteed repayment of a loan made by a third party to the Company (a "Guaranty") which Guaranty remains outstanding, the General Manager shall not undertake any of the following without the approval of such Lending Party, whose approval shall be the only approval required, and (b) provided that there does not then exist a Loan or a Guaranty, the General Manager shall not undertake any of the following without the approval of a majority in interest of the Members:

5.1.3.1. any Capital Transaction;

5.1.3.2. the Company's borrowing of more than \$250,000.00;

5.1.3.3. the admission of additional Members to the Company;

5.1.3.4. the Company's engaging in business in any jurisdiction which does not provide for the registration of limited liability companies;

5.1.3.5. the sale, exchange, lease, mortgage, pledge, or other transfer of all or substantially all of the assets of the Company;

5.1.3.6. approval of a merger or consolidation of the Company with or into another LLC or other business entity; and

5.1.3.7. amending the articles of organization (except as permitted in Law Section 213(b)).

5.1.3.8. file or consent to the filing of a bankruptcy or insolvency petition, make a general assignment for the benefit of creditors, consent to the appointment of a trustee or receiver for its property and assets, or otherwise institute reorganization, insolvency, or similar proceedings.

5.1.4. *Limitation on Authority of Members.*

5.1.4.1. No Member is an agent of the Company solely by virtue of being a Member, and no Member has authority to act for the Company solely by virtue of being a Member.

5.1.4.2. This Section 5.1 supersedes any authority granted to the Members pursuant to Section 401 or 402 of the Law. Any Member who takes any action or binds the Company in violation of this Section 5.1 shall be solely responsible for any loss and expense incurred by the Company as a result of the unauthorized action and shall indemnify and hold the Company harmless with respect to the loss or expense.

5.1.5. *Removal of Manager.* The Members holding at least two-thirds (2/3) of the Units then held by the Members, at any time and from time to time and with or without cause, may remove any or all managers of the Company then acting and elect a new manager or managers or make other provisions or arrangements for the management of the Company.

5.1.6. *Resignation of General Manager.* The General Manager may resign as such only upon thirty (30) days prior written notice to each Member; provided that such resignation shall not become effective until a successor General Manager shall have been elected or other provisions or arrangements for the management of the Company have been made by the Members holding at least two-thirds (2/3) of the Units then held by the Members.

5.2. *Meetings of and Voting by Members.*

5.2.1. No annual or regular meetings of the Members as such shall be required.

5.2.2. A meeting of the Members may be called at any time by the General Manager or by those Members holding at

least thirty-three percent (33%) of the Units then held by Members. Meetings of Members shall be held at the Company's principal place of business. Not less than ten (10) nor more than sixty (60) days before each meeting, the Person calling the meeting shall give written notice of the meeting to each Member entitled to vote at the meeting. The notice shall state the place, date, hour, and purpose of the meeting. Notwithstanding the foregoing provisions, each Member who is entitled to notice waives notice if before or after the meeting the Member signs a waiver of the notice which is filed with the records of Members' meetings, or is present at the meeting in person or by proxy without objecting to the lack of notice. Unless this Agreement provides otherwise, at a meeting of Members, the presence in person or by proxy of Members holding not less than a majority (over 50 percent) of the Units then held by Members constitutes a quorum. A Member may vote either in person or by written proxy signed by the Member or by the Member's duly authorized attorney in fact.

5.2.3. Except as otherwise provided in this Agreement, the affirmative vote of Members holding a majority (over 50 percent) or more of the Units then held by Members shall be required to approve any matter coming before the Members.

5.2.4. In lieu of holding a meeting, the Members may vote or otherwise take action by a written instrument indicating the consent of Members holding such Units then held by Members as would be required for Members to take action under this operating agreement. If such consent is not unanimous, prompt notice shall be given to those Members who have not consented in writing but who would have been entitled to vote thereon had such action been taken at a meeting.

### 5.3. Personal Service.

5.3.1. No Member shall be required to perform services for the Company solely by virtue of being a Member. Unless approved by the General Manager, no Member shall perform services for the Company or be entitled to compensation for services performed for the Company.

5.3.2. The General Manager shall not be entitled to compensation for services performed for the Company. However, upon substantiation of the amount and purpose

thereof, the General Manager shall be entitled to reimbursement for expenses reasonably incurred in connection with the activities of the Company.

*5.4. Duties of Parties.*

5.4.1. The General Manager shall devote such time to the business and affairs of the Company as is necessary to carry out the General Manager's duties set forth in this Agreement.

5.4.2. Except as otherwise expressly provided in Section 5.4.3, nothing in this Agreement shall be deemed to restrict in any way the rights of any Member, or of any Affiliate of any Member, to conduct any other business or activity whatsoever, and no Member shall be accountable to the Company or to any other Member with respect to that business or activity even if the business or activity competes with the Company's business. The organization of the Company shall be without prejudice to the Members' respective rights (or the rights of their respective Affiliates) to maintain, expand, or diversify such other interests and activities and to receive and enjoy profits or compensation therefrom. Each Member waives any rights the Member might otherwise have to share or participate in such other interests or activities of any other Member or the Member's Affiliates.

5.4.3. Each Member understands and acknowledges that the conduct of the Company's business may involve business dealings and undertakings with Members, the General Manager and their Affiliates. In any of those cases, those dealings and undertakings shall be at arm's length and on commercially reasonable terms. Section 411 of the Law shall apply to business dealings and undertakings involving the General Manager, Members and their Affiliates and nothing in this Agreement is intended to limit or restrict the application of such provisions to the Company.

*5.5. Liability and Indemnification.*

5.5.1. Except as otherwise provided by law, neither the General Manager nor any Member shall be liable, responsible, or accountable in any way for damages or otherwise to the Company or to any of the Members for any act or failure to act pursuant to this Agreement or otherwise unless (i) such person acted in bad faith, (ii)

the conduct of such person constituted intentional misconduct or a knowing violation of law, (iii) such person gained a financial benefit to which he or she was not legally entitled, or (iv) such person failed to perform his or her duties, specifically with respect to distributions under Section 508(a) of the Law, in good faith and with that degree of care that an ordinarily prudent person in a like position would use under similar circumstances.

5.5.2. The Company shall indemnify, defend, and hold harmless the General Manager and each of the Members (severally, the "Indemnitee" and collectively, the "Indemnitees"), from and against any claims, losses, liabilities, damages, fines, penalties, costs, and expenses (including, without limitation, reasonable fees and disbursements of counsel and other professionals) arising out of or in connection with any act or failure to act by an Indemnitee pursuant to this Agreement, or the business and affairs of the Company; provided, however, that an Indemnitee shall not be entitled to indemnification hereunder if (a) such Indemnitee's actions or omissions to act were made in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated, or (b) such Indemnitee personally gained a financial benefit to which the Indemnitee was not legally entitled.

#### 5.6. Power of Attorney.

5.6.1. *Grant of Power.* Each Member constitutes and appoints the General Manager as the Member's true and lawful attorney-in-fact ("Attorney-in-Fact"), and in the Member's name, place, and stead, to make, execute, sign, acknowledge, and file:

5.6.1.1. one or more articles of organization;

5.6.1.2. all documents (including amendments to articles of organization) which the Attorney-in-Fact deems appropriate to reflect any amendment, change, or modification of this Agreement which has been adopted by the Members in accordance with the terms hereof;

5.6.1.3. any and all other certificates or other instruments required to be filed by the Company under the laws of the State of New York or of any other state or jurisdiction, including, without limitation,

any certificate or other instruments necessary in order for the Company to continue to qualify as a limited liability company under the laws of the State of New York;

5.6.1.4. one or more fictitious or trade name certificates; and

5.6.1.5. all documents which may be required to dissolve and terminate the Company and to cancel its articles of organization.

5.6.2. *Irrevocability.* The foregoing power of attorney is irrevocable and is coupled with an interest, and, to the extent permitted by applicable law, shall survive the death or disability of a Member. It also shall survive the Transfer of an Interest, except that if the transferee is admitted as a Member, this power of attorney shall survive the delivery of the assignment for the sole purpose of enabling the Attorney-in-Fact to execute, acknowledge, and file any documents needed to effectuate the substitution. Each Member shall be bound by any representations made by the Attorney-in-Fact acting in good faith pursuant to this power of attorney, and each Member hereby waives any and all defenses which may be available to contest, negate, or disaffirm the action of the Attorney-in-Fact taken in good faith under this power of attorney.

## **Article VI** **Transfer of Interests and Withdrawal of Members**

6.1. *Transfers Generally.* No Person may Transfer all or any portion of, or any interest or rights in, the Membership Interest owned by the Member. Each Member hereby acknowledges the reasonableness of the prohibition contained in this Section 6.1 in view of the purposes of the Company and the relationship of the Members. The Transfer of any Membership Interests, including Interests, in violation of the prohibition contained in this Section 6.1 shall be deemed invalid, null and void, and of no force or effect. Any Person to whom Membership Interests are attempted to be transferred in violation of this Section shall not be entitled to vote on matters coming before the Members, participate in the management of the Company, act as an agent of the Company, receive distributions from the Company, or

have any other rights in or with respect to the Membership Interest.

6.2. *Transfers to Affiliates and Family.* Notwithstanding anything set forth in this Agreement to the contrary, but provided that the conditions set forth below are satisfied, any Member may at any time, and from time to time, Transfer all, or any portion of, or any interest or rights in, the Member's Interest or Membership Interest to (i) any other Member; (ii) any member of the Member's Family; or (iii) any Affiliate of the Member:

6.2.1. the Transfer will not require registration of Interests or Membership Interests under any federal or state securities laws;

6.2.2. the transferee delivers to the Company a written agreement to be bound by the terms of this Agreement;

6.2.3. the Transfer will not result in the termination of the Company pursuant to Code Section 708;

6.2.4. the Transfer will not result in the Company being subject to the Investment Company Act of 1940, as amended;

6.2.5. the Transfer will not cause the Company to be a "publicly traded partnership" within the meaning of Section 7704 of the Code; and

6.2.6. the transferor or the transferee delivers the following information to the Company: (i) the transferee's taxpayer identification number; and (ii) the transferee's initial tax basis in the Transferred Interest.

6.3. *Voluntary Withdrawal.* No Member shall have the right or power to Voluntarily Withdraw from the Company, except as otherwise provided in Article X of this Agreement. Any withdrawal in violation of this Agreement shall entitle the Company to injunctive relief as well as damages for breach, which may be offset against the amounts otherwise distributable to such member.

6.4. *Involuntary Withdrawal.* Immediately upon the occurrence of an Involuntary Withdrawal, the successor of the Withdrawn Member shall thereupon become an Interest Holder, but

shall not become a Member. If the Company is continued as provided in Section 7.1.3, the successor Interest Holder shall have all the rights of an Interest Holder, but shall not be entitled by reason of the withdrawal to receive in liquidation of the Interest, the fair market value of the Member's Interest as of the date the Member Involuntarily withdrew from the Company.

**Article VII**  
**Dissolution, Liquidation, and**  
**Termination of the Company**

7.1. *Events of Dissolution.* The Company shall be dissolved upon the written agreement of the Members holding seventy-five (75%) percent or more of the Units then held by Members.

7.2. *Liquidating Trustee.* If the Company is dissolved, the General Manager shall act as liquidating trustee. The General Manager shall liquidate and reduce to cash the assets of the Company as promptly as is consistent with obtaining a fair value therefor and, unless otherwise required by law, shall apply and distribute the proceeds of liquidation, as well as any other Company assets, first, to the payment of creditors of the Company, including Lending Parties, in satisfaction of the liabilities of the Company, and then to the Interest Holders in accordance with Section 4.4.

7.3. *Filing of Articles of Dissolution.* If the Company is dissolved, the General Manager shall promptly file Articles of Dissolution with the Department of State. If there is no General Manager, then the Articles of Dissolution shall be filed by the remaining Members; if there are no remaining Members, the Articles shall be filed by the last Person to be a Member; if there is neither a General Manager, remaining Members, or a Person who last was a Member, the Articles shall be filed by the legal or personal representatives of the Person who last was a Member.

**Article VIII**  
**Books, Records, Accounting, and Tax Elections**

8.1. *Bank Accounts.* All funds of the Company shall be deposited in a bank account or accounts opened in the Company's

name. The General Manager shall determine the institution or institutions at which the accounts will be opened and maintained, the types of accounts, and the Persons who will have authority with respect to the accounts and the funds therein.

8.2. Books and Records.

8.2.1. The General Manager shall keep or cause to be kept complete and accurate books and records of the Company and supporting documentation of the transactions with respect to the Company's business. The records shall include, but not be limited to:

- (1) a current alphabetized list of the names and addresses of all of the members, as well as the contribution and the share of profits and losses of each member or information from which such share can be readily derived;
- (2) if the firm is managed by a manager or managers, a current alphabetized list of the names and addresses of the managers;
- (3) a copy of the articles of organization and all amendments thereto or restatements thereof, together with executed copies of any powers of attorney pursuant to which any certificate or amendment has been executed;
- (4) a copy of the operating agreement and any amendments thereto and any amended and restated operating agreement; and
- (5) a copy of the Company's federal, state, and local income tax or information returns and reports, if any, for the three most recent fiscal years.

8.2.2. The books and records shall be maintained in accordance with sound accounting practices and shall be available at the Company's principal office for examination by any Member or the Member's duly authorized representative at any and all reasonable times during normal business hours.

8.2.3. Each Member shall reimburse the Company for all costs and expenses incurred by the Company in

connection with the Member's inspection and copying of the Company's books and records.

8.3. *Annual Accounting Period.* The annual accounting period of the Company shall be its taxable year. The Company's taxable year shall be selected by the General Manager, subject to the requirements and limitations of the Code.

8.4. *Reports.* Within seventy-five (75) days after the end of each taxable year of the Company, the General Manager shall cause to be sent to each Person who was a Member at any time during the taxable year then ended: (i) an annual compilation report, prepared by the Company's independent accountants in accordance with standards issued by the American Institute of Certified Public Accountants; and (ii) a report summarizing the fees and other remuneration paid by the Company to any Member, the General Manager, or any Affiliate in respect of the taxable year. In addition, within seventy-five (75) days after the end of each taxable year of the Company, the General Manager shall cause to be sent to each Person who was an Interest Holder at any time during the taxable year then ended, that tax information concerning the Company which is necessary for preparing the Interest Holder's income tax returns for that year. At the request of any Member, and at the Member's expense, the General Manager shall cause an audit of the Company's books and records to be prepared by independent accountants for the period requested by the Member.

8.5. *Tax Matters Member.* The Members shall designate a Member to be the Company's tax matters partner pursuant to Code Section 6231(a)(7) ("Tax Matters Member"). The Tax Matters Member shall have all powers and responsibilities provided in Code Section 6221, et seq. The Tax Matters Member shall keep all Members informed of all notices from government taxing authorities which may come to the attention of the Tax Matters Member. The Company shall pay and be responsible for all reasonable third party costs and expenses incurred by the Tax Matters Member in performing those duties. A Member shall be responsible for any costs incurred by the Member with respect to any tax audit or tax-related administrative or judicial proceeding against any Member, even though it relates to the Company. The Tax Matters Member shall not compromise any dispute with the Internal Revenue Service without the approval of the Members.

8.6. *Tax Elections.* The Tax Matters Member shall have the authority to make all Company elections permitted under the

Code, including, without limitation, elections of methods of depreciation and elections under Code Section 754. The decision to make or not make an election shall be at the Tax Matters Member's sole and absolute discretion.

**8.7. Title to Company Property.**

**8.7.1.** Except as provided in Section 8.7.2, all real and personal property acquired by the Company shall be acquired and held by the Company in its name.

**8.7.2.** The General Manager may direct that legal title to all or any portion of the Company's property be acquired or held in a name other than the Company's name provided, that the Company is and remains the beneficial owner of any such property. Without limiting the foregoing, the General Manager may cause title to be acquired and held in its name or in the names of trustees, nominees, or straw parties for the Company. It is expressly understood and agreed that the manner of holding title to the Company's property (or any part thereof) is solely for the convenience of the Company and all of that property shall be treated as Company property.

**Article IX**  
**General Provisions**

**9.1. Assurances.** Each Member shall execute all certificates and other documents and shall do all such filing, recording, publishing, and other acts as the General Manager deems appropriate to comply with the requirements of law for the formation and operation of the Company and to comply with any laws, rules, and regulations relating to the acquisition, operation, or holding of the property of the Company.

**9.2. Notifications.** Any notice, demand, consent, election, offer, approval, request, or other communication (collectively a "notice") required or permitted under this Agreement must be in writing and either delivered personally or sent by certified or registered mail, postage prepaid, return receipt requested or by facsimile transmission, provided receipt of facsimile transmission is actually acknowledged by the member or member's agent. Any notice to be given hereunder by the Company shall be given by the General Manager. A notice must be addressed to a Member at the Member's last known address on the records of the Company. A notice to the Company must be

addressed to the Company's principal office. A notice that is sent by mail will be deemed given three (3) business days after it is mailed. Any party may designate, by notice to all of the others, substitute addresses or addressees for notices; and, thereafter, notices are to be directed to those substitute addresses or addressees. A notice sent by facsimile is deemed given when receipt is acknowledged.

**9.3. Specific Performance.** The parties recognize that irreparable injury will result from a breach of any provision of this Agreement and that money damages will be inadequate to fully remedy the injury. Accordingly, in the event of a breach or threatened breach of one or more of the provisions of this Agreement, any party who may be injured (in addition to any other remedies which may be available to that party) shall be entitled to one or more preliminary or permanent orders (i) restraining and enjoining any act which would constitute a breach or (ii) compelling the performance of any obligation which, if not performed, would constitute a breach.

**9.4. Complete Agreement.** This Agreement constitutes the complete and exclusive statement of the agreement among the Members with respect to the subject matter thereof. It supersedes all prior written and oral statements, including any prior representation, statement, condition, or warranty. Except as expressly provided otherwise herein, this Agreement may not be amended without the written consent of a majority of the Members. Notwithstanding the foregoing, any modification of the terms of this Agreement which increases the obligations of a Member or decrease the rights of a Member may not be made without the prior written consent of the Member(s) affected by such modification.

**9.5. Applicable Law.** All questions concerning the construction, validity, and interpretation of this Agreement and the performance of the obligations imposed by this Agreement shall be governed by the internal law, not the law of conflicts, of the State of New York.

**9.6. Article and Section Titles.** The headings herein are inserted as a matter of convenience only and do not define, limit, or describe the scope of this Agreement or the intent of the provisions hereof.

**9.7. Binding Provisions.** This Agreement is binding upon, and inures to the benefit of, the parties hereto and their

respective heirs, executors, administrators, personal and legal representatives, successors, and permitted assigns.

9.8. *Exclusive Jurisdiction and Venue.* Any suit involving any dispute or matter arising under this Agreement or relating to the organization or operation of the Company may only be brought in a United States District Court located in the State of New York or any New York State Court having jurisdiction over the subject matter of the dispute or matter. All Members hereby consent to the exercise of personal jurisdiction by any such court with respect to any such proceeding and waive any objection to venue or inconvenient forum.

9.9. *Terms.* Common nouns and pronouns shall be deemed to refer to the masculine, feminine, neuter, singular, and plural, as the identity of the Person may in the context require.

9.10. *Separability of Provisions.* Each provision of this Agreement shall be considered separable; and if, for any reason, any provision or provisions herein are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid.

9.11. *Counterparts.* This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which, when taken together, constitute one and the same document. The signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

9.12. *Estoppel Certificate.* Each Member shall, within ten (10) days after written request by the General Manager, deliver to the requesting Person a certificate stating, to the Member's knowledge, that: (a) this Agreement is in full force and effect; (b) this Agreement has not been modified except by any instrument or instruments identified in the certificate; and (c) there is no default hereunder by the requesting Person, or if there is a default, the nature and extent thereof. If the certificate is not received within that ten (10) day period, the General Manager shall execute and deliver the certificate on behalf of the requested Member, without qualification, pursuant to the power of attorney granted in Section 5.6.

**IN WITNESS WHEREOF**, the parties have executed, or caused this Agreement to be executed, under seal, as of the date set forth hereinabove.

**GENERAL MANAGER:**

BDG ASSET MANAGEMENT, INC.

By:

Name: David Blumenfeld  
Title: Vice President

**MEMBERS:**

B.I.G. Partners

By:

Name: David Blumenfeld  
Title: Partner

Jonathan E. Cohen  
Jonathan E. Cohen

David J. Kaplan  
David J. Kaplan

Harvey Cohen  
Harvey Cohen

**Exhibit A**  
**List of Members, Capital, and Units**

Name, Address and Taxpayer I.D. Number	Initial Cash Capital Contribution	Units
<b>Members</b>		
B.I.G. Partners c/o Blumenfeld Development Group, Ltd. 6800 Jericho Turnpike Syosset, NY 11791 11-3500572	\$344.00	344.0
Jonathan E. Cohen c/o Blumenfeld Development Group, Ltd. 6800 Jericho Turnpike Syosset, NY 11791 128-56-3093	\$40.00	40.0
David J. Kaplan c/o Blumenfeld Development Group, Ltd. 6800 Jericho Turnpike Syosset, NY 11791 062-60-8891	\$12.00	12.0
Harvey Cohen c/o Blumenfeld Development Group, Ltd. 6800 Jericho Turnpike Syosset, NY 11791 112-38-1730	\$4.00	4.0

DECLARATION OF SERVICE

State of New York, County of New York )ss:

Ramsey Hinkle an attorney admitted to practice in the courts of New York,  
hereby declares:

I am not a party to this action, am over 18 years of age and am an associate at the law office of Clayman & Rosenberg, LLP 305 Madison Avenue, New York, New York 10165.

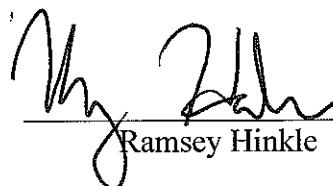
On January 6, 2010, I served a true copy of the annexed OBJECTIONS TO TRUSTEES DETERMINATIONS by depositing the same with an overnight delivery service in a wrapper properly addressed, the address having been designated by the addressee for that purpose. Said delivery was made prior to the latest time designated by the overnight delivery service for overnight delivery. The address and delivery service are indicated below:

VIA FEDERAL EXPRESS

Irving H. Picard, Trustee  
c/o Baker and Hostetler LLP  
45 Rockefeller Plaza – 11<sup>th</sup> Floor  
New York, New York 10111

I declare under penalty of perjury under the law of the United States of America that the foregoing is true and correct.

Executed on: January 6, 2010  
New York, New York



Ramsey Hinkle